IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

FIRST APPEAL NO.945 OF 1985

Shri Ram Kishore Chetram Sharma)
Indian Inhabitant, residing at 23/678)
1st Floor, Pant Nagar, Ghatkopar)
Bombay 400 077.).. Appellant
(Org.Plaintiff)

Versus

Shri Deo Prabhakar Ram Sahai)
Tripathi, also an Indian Inhabitant)
and residing at 15/3, Satyapal Singh)
Chawl, Laxmi Udyog Nagar, Bhandup)
Bombay 400 078.).. Respondent
(Org.Defendant)

Ms.J.A.Sarkhot i/b.Mr.R.V.Govilkar for the Appellant.

Mr.Nitin Jamdar i/b.M/s.Purohit & Co. for the Respondent.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 2ND DECEMBER 2004

ORAL JUDGMENT :

. This First Appeal challenges the judgment and order dated 5th August 1985 passed by the Judge, City Civil Court, Bombay in Special Civil Suit No.980 of 1977. This Suit had been filed for the following prayers :

(a) That it be declared that the writing Ex."C" hereto alleged by the Defendant to be a deed of dissolution of the partnership between the plaintiff and the Defendant is null, void, of no legal

effect and not binding on the Plaintiff.

(b) That it be declared that the partnership between the Plaintiff and the Defendant to carry on the business of running tea stalls on railway platforms in Bombay as envisaged by the partnership deed Ex."A" hereto is subsisting.

(c) That it be declared that the tea stall set up on or about 22.11.1976 at the Bombay end of Platform No.1 at Ghatkopar Railway Station also constitutes business of the partnership between the Plaintiff and the Defendant.

(d) That the Defendant be permanently restrained by an order and injunction of this Hon’ble Court from treating the said tea stall as his own personal property and from causing any obstruction to the plaintiff in participating in the business of that tea stall.

(e) That pending the hearing and final disposal of the Suit Court Receiver, High Court, Bombay, be appointed Receiver of the said stall.

(f) That in the event the Hon'ble Court is not inclined to appoint the Court Receiver as Receiver of the said tea stall, then in that case pending the hearing and final disposal of the suit the Defendant be directed by a mandatory injunction to render accounts of the said tea stall to the learned Registrar of this Hon'ble Court at the end of every three months and to deposit into Court on such periodical rendition of accounts periodical profits shown in such accounts.

(g) That pending the hearing and final disposal of the suit the Defendant be restrained by an Interim Order and Injunction from giving over to a third person the conduct of the said tea stall.

(h) For costs of the suit.

(i) For such other and further relief as Hon'ble Court may deem just and proper in the circumstances of the case.

2. For the reasons recorded in First Appeal No.568 of 1985, the First Appeal is dismissed.